

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 1849 OF 2006.

Kailash Jailal Dadhia .. Petitioner.
Vs
Sr. Inspector Police
Vile Parle Police
Station and others .. Respondents.

Mr. M.M. Vashi for the petitioner.
Mrs. M.M. Deshmukh, A.P.P. for the respondent.

CORAM : S.C. DHARMADHIKARI, J.
DATE : 28TH AUGUST, 2006.

P.C.
. Heard Mr. Vashi appearing for the petitioner
and Mrs. Deshmukh appearing for the respondents.

2. The petitioner is an accused in Varanasi Case No.3188/205. In fact, the Spl. Chief Judicial Magistrate at Varanasi has issued a proclamation on the basis that the petitioner is absconding. The Petitioner is admittedly, obliged to appear before the said Court on the dates which are determined for the trial in that Court.

3. However, the petitioner submits that today the property is sealed. The petitioner apprehends his arrest in pursuant of the proclamation, which has been sent to the Vile Parle Police Station. The applicant

submits that the next date for appearance in Varanasi Court is 30th August, 2006. Mr. Vashi, upon taking instructions from the petitioner makes a statement, that the petitioner would appear before the Spl. Chief Judicial Magistrate, Court at Varanasi within one week from today and would thereafter make an appropriate application to the said Court for withdrawal of the proclamation.

4. He submits that to enable the petitioner to do so, this Court should protect him and pass an order not to arrest him till 4th September, 2006. This is temporary relief and petitioner is not pressing the application on any other grounds.

5. The learned A.P.P. states that the petitioner has not appeared in the case and therefore, he has been declared as an absconding accused and proclamation has been issued. Pursuant to the proclamation steps have been taken in accordance with law. It is the duty of the concerned Police Station to apprehend and arrest the accused and thereafter forward him to the Court at Varanasi. In such circumstances, this petition be dismissed.

6. In the light of the Division Bench decision of the case reported in 1985 Mah. L.J. 450 and further the petitioner undertaking through his Counsel that he would appear before the Spl. Chief Judicial Magistrate, Varanasi within a period of one week from today and apply for appropriate relief before that Court, He deserves to be protected. Accordingly, the following order:-

A. It is directed that the petitioner shall not be arrested till 4th September, 2006, within which period he should make an application to the Court at Varanasi for appropriate relief.

B. Needless to state that if within this period the petitioner does not appear before the said Court, then this order shall stand automatically vacated on 4th September, 2006 and thereafter, steps in accordance of law shall be taken by all authorities including Juhu Police Station.

C. Application is disposed of.

. All concerned to act on authenticated copy of
this order.

(S.C. DHARMADHIKARI, J.)